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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/586,571	06/02/2000	Mark A. Webster	INSL:0012	6023

7590 09/03/2003
Gary R Stanford
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610 West Lynn
Austin, TX 78703

EXAMINER

STEVENS, ROBERTA A

ART UNIT	PAPER NUMBER
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2665

DATE MAILED: 09/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/586,571

Applicant(s)

WEBSTER et al.

Examiner

Roberta A Stevens

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2-5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

the claimed invention is directed to non-statutory subject matter. Claim 1 only recites a packet configuration, which is a non-statutory subject matter.

2. Claims 2-19 are rejected for being dependent on rejected claim 1.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 20-32 and 34-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schreiber (U.S. 5425050).

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6. Regarding claims 20-23, 27-31, 33-38 and 41-43, Schreiber teaches (figure 5) a wireless communication device that is configured to communicate using a dual packet configuration, comprising: a transmitter, and a receiver for transmitting and receiving packets with dual configuration.

7. As for a dual configured packet configuration, Schreiber teaches a combining of two signals having SS and OFDM modulation, upon the combining of the two signals becomes a signal with two portions, one with SS modulation and the other with OFDM modulation. It would have been obvious to one of ordinary skill in this art to adapt the combination of the two signals with two different modulations to overcome the existing limitations of TV transmission systems.

8. Regarding claims 24-25, 39 and 40, as for the two clocks for the two portions, it is inherent in Schreiber's system that the two clocks exist in order to operate to different modulations.

9. Regarding claims 45 and 46, it is inherent in Schreiber's system that at some point there will be operation of only one modulation and switching between the two. In order to properly transmit and receive the signal.

10. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schreiber in view of Alamouti (U.S. 6560209 B1).

11. As mentioned above Schreiber teaches the limitations of claim 20.

12. Schreiber does not teach the use of pilot tones.

13. Alamouti teaches (column 12, lines 54 – 62) the use of pilot tones. It would have been obvious to one of ordinary skill in this art to adapt to Schreiber's system Alamouti's use of pilot tones because pilot tones carry known data patterns that enable an accurate channel estimation.

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Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Crawford (U.S. 6438367 B1), Schneider (U. S. 6377562 B1), Isaksson (U.S. 6493395 B1) and Feher (U.S. 6470055 B1) are cited to show the state of the art.

15. Any inquiry concerning the communication or earlier communications from the examiner should be directed to Roberta Stevens whose telephone number is (703) 308-6607. The examiner can normally be reached on Monday through Friday from 9:00 am to 5:30 p.m.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor can be reached on (703) 308-6602.

17. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 305-3900.

18. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to: (703) 746-9515

For informal draft communications, please label "PROPOSED" or "DRAFT"

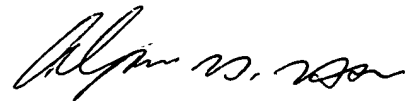
Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,

Arlington, VA. Sixth Floor (Receptionist).

Roberta A. Stevens

Patent Examiner

08-22-03



**ALPUS H. HSU
PRIMARY EXAMINER**